

AMENDED IN SENATE APRIL 26, 2010

AMENDED IN SENATE APRIL 12, 2010

SENATE BILL

No. 1363

Introduced by Senator Runner

February 19, 2010

An act to ~~amend Section 17405 of, and to add Section 17405.5 to,~~ the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

SB 1363, as amended, Runner. Escrow agents.

Existing law, the Escrow Law, provides for the licensure and regulation of escrow agents by the Commissioner of Corporations. ~~Under that law, the commissioner is authorized to conduct an indoctrination or preliminary examination, or both, of any new licensee within one year of the issuance of the license, and an inspection and examination within 2 years of the issuance of the license. Each person licensed under that law is required to participate as a member of Fidelity Corporation, a nonprofit mutual benefit corporation, established to indemnify its members against loss. Existing law requires a shareholder, officer, director, trustee, manager, or employee of an escrow agent to obtain a Fidelity Corporation Certificate as a condition of employment.~~

~~This bill would require the commissioner to conduct these examinations with respect to new licensees and would also apply these provisions to a change of ownership of a licensee. The bill would also require an officer, director, trustee, or employee of a licensee who has access to money or negotiable securities of the licensee, as specified, and certain other persons to complete a course in escrow management conducted by the commissioner, within 12 months following the~~

issuance of a new license or a change of ownership their receipt of a Fidelity Corporation Certificate, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17405.5 is added to the Financial Code,
2 to read:

3 17405.5. (a) The following persons shall complete a course
4 in escrow management conducted by the commissioner within 12
5 months of their receipt of a Fidelity Corporation Certificate:

6 (1) Any officer, director, trustee, or employee of an escrow
7 agent, whether or not compensated, who has access to money or
8 negotiable securities belonging to the escrow agent in the regular
9 discharge of his or her duties.

10 (2) Any person who may draw checks upon the escrow agent
11 or upon the trust funds of the escrow agent in the regular discharge
12 of his or her duties.

13 (b) The commissioner may charge persons required to comply
14 with this section a reasonable fee, as determined by the
15 commissioner, to cover the costs to administer this section.

16 (c) This section shall apply to all licensees that become newly
17 licensed or who undergo a change in ownership on or after
18 January 1, 2011, and to all persons described in subdivision (a)
19 who are hired on or after January 1, 2011, by licensees that were
20 in existence prior to that date.

21 (d) For purposes of this section, a “change in ownership” shall
22 be deemed to have occurred when a licensee is required to file a
23 new application for licensure pursuant to the requirements of
24 Section 17213, and that license application is approved by the
25 commissioner.

26 SECTION 1. Section 17405 of the Financial Code is amended
27 to read:

28 17405. (a) The business, accounts and records of every person
29 performing as an escrow agent, whether required to be licensed
30 under this division or not, are subject to inspection and examination
31 by the commissioner at any time without prior notice. The
32 provisions of this section shall not apply to persons specified in
33 Section 17006.

1 ~~(b) Any person subject to this division shall, upon request,~~
2 ~~exhibit and allow inspection and copying of any books and records~~
3 ~~by the commissioner or his or her authorized representative.~~

4 ~~(c) (1) The commissioner shall conduct an examination of each~~
5 ~~licensed escrow agent as described in subdivision (a) as often as~~
6 ~~the commissioner deems necessary and appropriate, but not less~~
7 ~~than once every 48 months.~~

8 ~~(2) The examination shall be conducted for the 12-month period~~
9 ~~immediately preceding the date that the examination is commenced~~
10 ~~unless the commissioner finds, based on information uncovered~~
11 ~~in the examination or in the most recent independent audit report,~~
12 ~~that the examination should be extended beyond the 12-month~~
13 ~~period.~~

14 ~~(3) In determining how often an examination shall be conducted,~~
15 ~~the commissioner may consider each licensed escrow agent's~~
16 ~~compliance with the requirements set forth in this division and~~
17 ~~other factors the commissioner may by rule or order designate.~~

18 ~~(4) This subdivision shall apply only to examinations~~
19 ~~commenced after the effective date established by the rule or order~~
20 ~~of the commissioner for the factors described in paragraph (3).~~

21 ~~(d) Notwithstanding subdivision (c), the commissioner shall~~
22 ~~conduct an indoctrination or preliminary examination, or both,~~
23 ~~under this section of any new licensee or of a licensee that has a~~
24 ~~change in ownership within one year of the issuance of the license~~
25 ~~or of the change of ownership under this division, and an~~
26 ~~examination described in subdivision (a) within two years of the~~
27 ~~issuance of the license or of the change of ownership under this~~
28 ~~division.~~

29 ~~SEC. 2. Section 17405.5 is added to the Financial Code, to~~
30 ~~read:~~

31 ~~17405.5. (a) Any officer, director, trustee, or employee of an~~
32 ~~escrow agent, whether or not compensated, who has access to~~
33 ~~money or negotiable securities belonging to the escrow agent in~~
34 ~~the regular discharge of his or her duties, or any person who may~~
35 ~~draw checks upon the escrow agent or upon the trust funds of the~~
36 ~~escrow agent in the regular discharge of his or her duties shall,~~
37 ~~within 12 months of the issuance of a new license to that escrow~~
38 ~~agent, or a change of ownership involving that escrow agent,~~
39 ~~complete a course in escrow management conducted by the~~
40 ~~commissioner.~~

1 ~~(b) The commissioner may charge persons described in~~
2 ~~subdivision (a) a reasonable fee, as determined by the~~
3 ~~commissioner, to cover the costs of providing courses in escrow~~
4 ~~management.~~

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